



Mayor & Council of Berlin

10 William Street, Berlin, Maryland 21811

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Mayor

Wm. Gee Williams, III

Vice President

Elroy Brittingham, Sr.

Council Members

Dean Burrell, Sr.

Lisa Hall

Paula Lynch

Troy Purnell

BERLIN, MARYLAND

MAYOR AND COUNCIL MEETING

Town Attorney

David Gaskill

MONDAY, JANUARY 14, 2013

Town Administrator

Anthony J. Carson, Jr.

COUNCIL CHAMBERS – BERLIN TOWN HALL

10 WILLIAM STREET

BERLIN, MD 21811

EXECUTIVE SESSION.....6:30 PM

REGULAR SESSION7:00 PM

Anyone having questions about the meetings mentioned above or needing special accommodations should contact Tony Carson, Town Administrator at (410) 641-4144. Written materials in alternate formats for persons with disabilities are made available upon request.

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**BERLIN MAYOR AND COUNCIL
COUNCIL MEETING
AGENDA
Monday, January 14, 2013**

6:30 PM EXECUTIVE SESSION - Berlin Conference Room

7:00 PM REGULAR SESSION – Berlin Town Hall Council Chambers

1. Approval of the Minutes for:
 Regular Session of the Mayor and Council on December 10, 2012
 Executive Session of the Mayor and Council on December 10, 2012
 Statement of Closure for Mayor and Council on December 10, 2012
 Worksession Minutes for Mayor and Council on January 7, 2013
 Executive Session of the Mayor and Council on January 7, 2013
 Statement of Closure for Mayor and Council on January 7, 2013
2. Motion to Approve – Mayor to Sign Agreement with DDU Magnetics Inc. for Wind Turbine at Schoolfield Street Substation.
3. Resolution 2012-08
 A Resolution establishing a septic tier map pursuant to the requirements established in the Sustainable Growth and agricultural preservation act (SB236) as adopted by the Maryland Legislature.
4. Motion to Approve- Purchase of 1 additional EDU and payment plan for 10019 Old Ocean City Boulevard.
5. Motion to Approve- Contract with low bidder Joshi Construction for renovation of public bathrooms in an amount not to exceed \$104,528.00.
6. Introduction - Ordinance 2013-01; Establishment of Stormwater Utility Department. Public hearing to be held January 28, 2013.
7. Discussion – Resolution 2013-01, Establishment of Stormwater Management Utility Fee System.
8. Departmental Reports
 - a. Finance – Lynn Musgrave
 - b. Deputy Town Administrator – Mary Bohlen
 - c. Public Works – Mike Gibbons
 - d. Water Resources – Jane Kreiter
 - e. Electric – Tim Lawrence
 - f. Police – Arnold Downing
 - g. Planning and Zoning - Chuck Ward
 - h. Human Resources – Jeff Fleetwood
 - i. Economic and Community Development – Michael Day
9. Town Administrator's Report

10. Comments from the Mayor
11. Comments from the Council
12. Comments from the Public
13. Comments from the Press
14. Adjournment

MAYOR AND COUNCIL OF BERLIN, MARYLAND
Regular Session Council Minutes
Monday, December 10, 2012

The meeting of the Mayor and Council for Monday, December 10, 2012 was called to order by Mayor Williams at approximately 7:00 p.m. Councilmembers Hall, Burrell, Brittingham, Purnell and Lynch were present, as well as Town Administrator Tony Carson, Human Resources Director Jeff Fleetwood, Deputy Town Administrator Mary Bohlen, Town Attorney David Gaskill, Finance Director Lynn Musgrave, Public Works Director Mike Gibbons, Police Chief Arnold Downing, Electric Utility Director Tim Lawrence, Planning and Zoning Director Chuck Ward, Economic and Community Development Director Michael Day and Administrative Assistant Sharon Timmons. Water Resources Director Jane Kreiter was absent.

Following the recitation of the Lord's Prayer and the Pledge of Allegiance, Mayor Williams asked for a motion for approval of the Regular minutes of November 26, 2012. Councilmember Lynch made a motion to approve the minutes and council voted unanimously to approve 5-0. Mayor Williams then asked for approval of the Executive Session minutes of November 26, 2012. Councilmember Brittingham made a motion to approve the minutes and council voted unanimously to approve 5-0. Mayor Williams stated that the Executive Session was closed to consult with staff, consultants or individuals regarding potential or possible litigation.

Ms. Tracey Gordy, Director of Maryland Department of Planning Lower Eastern Shore Regional Office came before the council to discuss the establishment of septic tier mapping pursuant to requirements established by SB236. Ms. Gordy described the bill, requirements and the septic tier definitions. She further advised that the municipalities were in a fortunate position because this bill was written primarily on behalf of town growth issues. She suggested that the map should be adopted by the end of 2012, although she did not foresee any issues with waiting until the new year to adopt.

Mayor Williams introduced the motion to approve the extension of a license permit to public property for the Globe Theater for the New Year's Eve Ball Drop on December 31, 2012 from the hours of 8:00 p.m. to 12:30 a.m. Ms. Jennifer Dawicki, proprietor of the Globe came before the council and stated that she was re-applying for the request to set-up a bar outside her establishment on 12 Broad Street for the New Year's Eve celebration. Ms. Dawicki stated that she would be offering sodas, coffee, hot chocolate and water as well as beer, wine and liquor and possibly soup. Ms. Dawicki asked for those persons in attendance to show support for the Globe to please stand or raise their hands. There were about 50 persons in the audience who responded in support. Ms. Dawicki explained that additional service points would be needed in the immediate area of the ball drop to accommodate the anticipated crowds. Ms. Dawicki asked Councilmembers Hall, Burrell and Brittingham to explain their decisions for their opposition to her request at the November 26th meeting. Councilmember Burrell stated that he felt it was inappropriate to designate a public way in order to enhance her business and profits and was fundamentally opposed to the concept. Councilmember Brittingham stated that he had received many phone calls from citizens since the last meeting supporting his decision to deny the request. Councilmember Purnell stated that he had not seen any problems in the past, but if a problem or issue were to occur in the future, that would be the day the whole thing ends. Ms. Dawicki stated that her request was based not only on Globe dollars, but mainly on supply and demand for this particular event. Councilmember Purnell made a motion to approve Ms.

Dawicki's request for extension of her premise license for December 31, 2012 from 8:00 p.m. to 12:30 a.m. Council voted 3 to 2 against the motion with Councilmembers Hall, Burrell and Brittingham opposed and Councilmembers Lynch and Purnell in favor.

Town Administrator Tony Carson explained that Items 4-8 would need to be voted on separately since the applications to Worcester County by the businesses would be submitted on an individual basis.

Mayor Williams introduced the motion to approve supporting the application from 119 North Main Street LLC (TexMex) to Worcester County Board of License Commissioners allowing patrons to leave their premises with non-glass containers on December 31, 2012 from 8:00 p.m. to 12:30 a.m. into the designated areas exempt from the open container consumption law. Councilmember Purnell made a motion to approve supporting the application to Worcester County Board of License Commissioners from 119 North Main Street LLC (TexMex) and council voted to approve 4-1 with Councilmember Burrell opposed.

Mayor Williams introduced the motion to approve supporting the application from Jemp Enterprises LLC (Si'culi) to Worcester County Board of License Commissioners allowing patrons to leave their premises with non-glass containers on December 31, 2012 from 8:00 p.m. to 12:30 a.m. into the designated areas exempt from the open container consumption law. Councilmember Purnell made a motion to approve supporting the application to Worcester County Board of License Commissioners from Jemp Enterprises LLC (Si'culi) and council voted to approve 4-1 with Councilmember Burrell opposed.

Mayor Williams introduced the motion to approve supporting the application from Jennifer Dawicki (The Globe) to Worcester County Board of License Commissioners allowing patrons to leave their premises with non-glass containers on December 31, 2012 from 8:00 p.m. to 12:30 a.m. into the designated areas exempt from the open container consumption law. Councilmember Purnell made a motion to approve supporting the application to Worcester County Board of License Commissioners from Jennifer Dawicki (The Globe) and council voted to approve 4-1 with Councilmember Burrell opposed.

Mayor Williams introduced the motion to approve supporting the application from the Maryland Wine Bar at Berlin L.T.D. to Worcester County Board of License Commissioners allowing patrons to leave their premises with non-glass containers on December 31, 2012 from 8:00 p.m. to 12:30 a.m. into the designated areas exempt from the open container consumption law. Councilmember Purnell made a motion to approve supporting the application to Worcester County Board of License Commissioners from Maryland Wine Bar at Berlin L.T.D. and council voted to approve 4-1 with Councilmember Burrell opposed.

Mayor Williams introduced the motion to approve supporting the application from Sisters LLC (Sisters) to Worcester County Board of License Commissioners allowing patrons to leave their premises with non-glass containers on December 31, 2012 from 8:00 p.m. to 12:30 a.m. into the designated areas exempt from the open container consumption law. Councilmember Purnell made a motion to approve supporting the application to Worcester County Board of License Commissioners from Sisters LLC (Sisters) and council voted to approve 4-1 with Councilmember Burrell opposed.

Councilmember Lynch inquired if there was another location in town available for the dropping of the New Year's Eve ball to help alleviate the bottleneck. Mr. Lawrence stated that the current area is probably the largest area available. Councilmember Lynch then suggested that

in the future, requests for events should be brought forth at the same time rather than piece meal. Mr. Carson agreed with Councilmember Lynch and asked for guidance from council as it would allow staff to more effectively plan regarding entertainment and vendors. Mayor Williams asked for Economic and Community Development Director Michael Day to try and have a calendar listing of events available for review and approval as soon as possible.

Doug Richards, electrical engineer from DDU Magnetics Inc. came before the council to propose the installation of a wind turbine at the Savage Substation located on Schoolfield Street. Mr. Richards stated that the turbine would be funded by DDU Magnetics as part of a pilot program. The Town would supply the space and the investment by the Town of \$3,000 to \$4,000 would be recouped back as energy savings within the first 6 to 8 months. Discussion continued regarding the impact of noise on the neighborhood. Councilmember Burrell recommended that input be sought from the neighboring residents. Councilmember Brittingham suggested that Mr. Carson and Mr. Lawrence prepare a presentation and go door to door to discuss with the neighbors. The council agreed in consensus regarding the door to door presentation and Councilmember Brittingham agreed to accompany them if time permitted. Councilmember Burrell inquired if there were any stipulations regarding our contract with PJM and our purchase power agreement which would prevent us from installing alternative or another source of energy. Mr. Carson stated that Dwight Davis from Booth and Associates would investigate the agreements after a decision was made if the Town would pursue the installation of the wind turbine. No decision from the council was made at this time as they are waiting for responses from the neighborhood.

Mayor Williams announced the motion to approve an amendment to the contract with Worth Construction from the amount of \$64,835.00 to \$69,995.76 for additional work to be completed on Flower Street Sidewalks. This amendment would allow the completion of the sidewalk project to the end of the town limits on Flower Street. Councilmember Brittingham made a motion to approve the amendment of the contract with Worth Construction from \$64,835.00 to \$69,995.76 and council voted unanimously to approve 5-0.

Finance Director Lynn Musgrave explained the motion to approve a budget amendment for FY13 to reduce the electric contingency fund by \$3,000,000 and to transfer those monies to the Energy Assistance Fund. The request was made by the Public Service Commission as a condition regarding the rate decrease for non-residential customers. The amendment will take effect on December 10, 2012. Councilmember Burrell made a motion to approve the budget amendment and council voted unanimously to approve 5-0.

Town Administrator Tony Carson explained the motion to authorize EA Engineering, Science and Technology to provide inspection services at the Branch Street Wellhouse Project. Mr. Carson stated that staff has attempted to provide those services, but at times were not able to do so due to issues or repairs that may arise. He stated that EA Engineering, Science and Technology was the engineer for this project and there were critical times when an inspector was needed on site. Services would be billed on an as-needed basis at an hourly rate. Councilmember Brittingham made a motion to authorize EA Engineering, Science and Technology to provide inspection services on an as-needed basis at the Branch Street Wellhouse Project and council voted unanimously to approve 5-0.

Finance Director Lynn Musgrave reported that the new utility bills mailed on Monday will reflect the rate change for non-residential customers.

Public Works Director Mike Gibbons reported that the basketball courts should be painted in the next week or so dependent on the weather. Councilmember Hall expressed her concern about the absence of the bollards at the corner of Broad and West Streets.

Electric Utility Director Tim Lawrence reported that their portion of the Flower Street pole relocation should be completed by the end of the week. He continued his report stating that he felt the parade went well and thanked the Town of Ocean City and State Highway for the use of their generator lighting stands.

Police Chief Arnold Downing reported a successful parade and thanked the Pocomoke, Ocean City and Snow Hill police departments, Maryland State Police, volunteers and the Ocean City Fire Police for their assistance.

Planning and Zoning Director Chuck Ward reported positive experiences from potential businesses, developers and builders.

Human Resources Director Jeff Fleetwood reported that the purchase order for State Retirement showed a reduction of \$35,000.000 from the previous year. He continued his report stating that he would be in Snow Hill on December 14th to meet with MEMA officials.

Economic and Community Development Director Michael Day announced that the Town of Berlin had been awarded a Community Legacy Grant in the amount of \$50,000 for façade work and warehouse conversion to retail space work. He also reported that he would be attending the Lower Eastern Shore Heritage Council annual board meeting and introduced Ms. Sheila Cherry, the new reporter for Ocean City Today newspaper.

Town Administrator Tony Carson requested approval of 4 purchase orders (201301523, 201301595, 201301475 and 201301533). Councilmember Burrell made a motion to approve all 4 purchase orders and council voted unanimously to approve 5-0.

Mayor Williams thanked all of the employees, department heads and all volunteers for their assistance with the 41st Berlin Christmas parade. He then recommended that the council meeting scheduled for December 26th be cancelled. Councilmember Hall made a motion to cancel the Mayor and Council meeting scheduled for December 26th and council voted unanimously to approve 5-0.

Councilmember Burrell asked how employee recognition letters were communicated to the employees and how are they memorized. Mr. Carson stated that a copy of the letter was given to the employee and a copy is placed in the employee's personnel file. Mr. Burrell then asked what the next step would be concerning the stormwater utility. Mayor Williams proposed that a workshop meeting take place hopefully in January to review the recommendations for any changes or adjustments to the plan and then be formally presented at a public meeting with a public hearing to be held two weeks later.

Councilmembers Brittingham, Lynch and Purnell also expressed their praise on the success of the Christmas parade.

Mayor Williams asked for comments from the public or the press. Mr. Brad Gillis of Sunset Lane spoke that he had been in attendance this evening to support Ms. Dawicki's request and felt that the denial of her premise extension was a step in the wrong direction.

Mr. Jerome Wharton inquired how the stormwater utility fee would be calculated for non-operating businesses such as Tyson. The fee would be calculated dependent on the square footage of the business rather it is in operation or not.

There being no further comments or questions, Councilmember Lynch made a motion to adjourn the meeting and the meeting ended at 9:15 pm.

Respectfully submitted

A handwritten signature in cursive script, appearing to read "Sharon Timmons".

Sharon Timmons
Administrative Assistant

Town of Berlin Mayor and Council Stormwater Utility Worksession

January 7, 2013

The Stormwater Utility Worksession of the Berlin Mayor and Council for Monday, January 7, 2013 began at 6:12 p.m. In attendance were Mayor Williams, Councilmembers Hall, Brittingham, Burrell and Lynch were present as well as Town Administrator Tony Carson, Town Attorney David Gaskill, Darl Kolar, Stormwater Engineer from EA Engineering, Science and Technology and Administrative Assistant Sharon Timmons.

Mayor Williams stated that the purpose of the worksession was to discuss the recommendations and proposals from the University of Maryland Environmental Finance Center regarding the creation of a stormwater utility, associated fee structure and the impacts on the community. Mayor Williams stated that if a consensus was reached regarding the framework, the Town Attorney and Town Administrator would then draft an Ordinance establishing the Stormwater Utility and a Resolution which would establish the fees. These documents are to be ready and introduced at the next council meeting. The public hearing would take place on January 28th.

Town Administrator Tony Carson gave a Powerpoint presentation showing pictures of areas which flooded during Hurricane Sandy. He then reviewed the findings and recommendations by the Environmental Finance Center, which include a flat rate fee structure of \$50 a year for residential and a \$45 per ERU for non-residential properties. Mr. Carson explained that concerns had been voiced from the public regarding the non-residential rate and the prioritization of the construction projects slated for the first year. Mr. Carson reviewed the schedule of projects for year one and the possible funding sources for those projects. Those projects are Nelson, Franklin and William Street; Flower and Showell Streets and West Street and Abbey Lane. Possible Funding Sources are MEMA, CDBG and DNR.

Mr. Carson explained an alternative proposal which could reduce the non-residential rate from \$45 to \$25. To accomplish this, the Town would need to use \$300,000.00 annually from the General Fund for a period of 10 years to go into the newly formed Stormwater Utility Fund and would put the Town in a good position for grants, bonds and additional financing. Future construction projects will be based on Engineer evaluations. Year 2 projects would be Henry's Mill, Henry's Green and Decatur Farms.

Councilmember Hall questioned the timeline regarding design and permitting. Mr. Carson stated that if council decided to proceed with the schedule, the Town would go ahead with the design immediately and begin collecting the fees as of July 1st even though the impacts would not be seen until the summer of 2014.

Councilmember Burrell stated that he agreed with the concept, but felt further discussion would be needed on the roles, policies and procedures of the department. Mayor Williams stated that he felt that the Town should contribute monies from the contingency fund to help reduce the fees that would be assessed to the non-residential properties. He explained that by creating a stormwater utility, a dedicated income stream would be established, qualifying the Town to apply for and receive funding from the sources stated above.

Town Attorney David Gaskill asked for clarification if multifamily units would be classified as residential and Mr. Carson stated no, residential is classified as a single family dwelling and all other properties such as apartments would be considered non-residential. Townhomes would be considered residential.

Councilmember Hall asked how developers would be affected by the creation of a stormwater utility and if they would shoulder any financial responsibility to pay into these fees. Darl Kolar, the Town's Stormwater Engineer from EA Engineering, Science and Technology stated that developers are required to manage their stormwater on site and must go through a stormwater management review and approval process prior to construction. Councilmember Lynch inquired if anyone had a problem with the concept and council replied no.

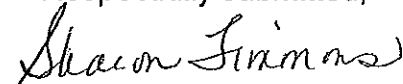
Discussion continued regarding which department would oversee the Stormwater Utility personnel. Mayor Williams stated that the expertise regarding stormwater is in the Water Resources department. Mr. Carson stated that assistance would be brought in from all departments and that only 2 additional persons would be needed. Councilmember Burrell inquired when the council would see the job descriptions, goals and responsibilities of the utility and Mr. Carson replied within a few months.

Mr. Carson asked council to consider using FY13 funds as the first payment since the Town will need design and GIS assistance to calculate the non-residential ERU's. He then spoke of new developments or possible re-development that may be coming into the Town.

Council chose by consensus to approve Town Attorney Gaskill and Town Administrator Carson to proceed with the draft Ordinance to establish the Stormwater Utility with a first reading at the January 14th meeting and a public hearing to be held on January 28th. The Resolution establishing the recommended rates will be also read at the meeting.

The meeting ended at 7:25 p.m.

Respectfully submitted,


Sharon Timmons
Administrative Assistant

ORDINANCE 2013-01

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN, MARYLAND, A MARYLAND MUNICIPAL CORPORATION, AMENDING CHAPTER 26 OF THE TOWN CODE BY ADDING ARTICLE V THERETO FOR THE PURPOSE OF ESTABLISHING A STORMWATER UTILITY DEPARTMENT UNDER THE DIRECTION AND SUPERVISION OF THE WATER RESOURCES DEPARTMENT AND FURTHER ESTABLISHING A STORMWATER MANAGEMENT UTILITY FEE SYSTEM

NOW THEREFORE, BE IT ENACTED BY THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN, MARYLAND AS FOLLOWS:

STORMWATER
CHAPTER 26

ARTICLE V. ESTABLISHMENT OF STORMWATER UTILITY
DEPARTMENT AND A STORMWATER MANAGEMENT UTILITY FEE
SYSTEM

§ 26-260 FINDINGS.

(A) THE TOWN MAINTAINS A SYSTEM OF STORM AND SURFACE WATER MANAGEMENT FACILITIES INCLUDING, BUT NOT LIMITED TO, INLETS, CONDUITS, MANHOLES, CHANNELS, DITCHES, DRAINAGE EASEMENTS, RETENTION AND DETENTION BASINS, INFILTRATION FACILITIES, AND OTHER COMPONENTS AS WELL AS NATURAL WATERWAYS.

(B) THE STORMWATER SYSTEM IN THE TOWN NEEDS TO BE UPGRADED, IMPROVED AND REGULARLY MAINTAINED.

(C) WATER QUALITY IS DEGRADING DUE TO EROSION AND THE DISCHARGE OF NUTRIENTS, METALS, OIL, GREASE, TOXIC MATERIALS AND OTHER SUBSTANCES INTO AND THROUGH THE STORMWATER SYSTEM.

(D) THE PUBLIC HEALTH SAFETY AND WELFARE IS ADVERSELY AFFECTED BY POOR AMBIENT WATER QUALITY AND EXTREME FLOODING THAT RESULTS FROM INADEQUATE MANAGEMENT OF BOTH THE QUALITY AND QUANTITY OF STORMWATER.

(E) ALL REAL PROPERTY IN THE TOWN USES AND BENEFITS FROM THE MAINTENANCE OF THE STORMWATER SYSTEM.

(F) THE EXTENT OF THE USE OF THE STORMWATER SYSTEM BY EACH PROPERTY IS DEPENDENT ON FACTORS THAT INFLUENCE RUNOFF, INCLUDING LAND USE AND THE AMOUNT OF IMPERVIOUS SURFACE ON THE PROPERTY.

(G) THE COSTS OF IMPROVING, MAINTAINING, OPERATING AND MONITORING THE STORMWATER SYSTEM SHOULD BE ALLOCATED, TO THE EXTENT PRACTICABLE, TO ALL PROPERTY OWNERS BASED ON THE IMPACT OF RUNOFF FROM THE IMPERVIOUS AREAS OF THEIR PROPERTY ON THE STORMWATER MANAGEMENT SYSTEM.

(H) MANAGEMENT OF THE STORMWATER SYSTEM TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE REQUIRES THE CREATION OF A STORMWATER UTILITY DEPARTMENT TO MONITOR, MAINTAIN, IMPROVE AND OVERSEE THE OPERATION OF THE STORMWATER UTILITY SYSTEM AND FURTHER REQUIRES THAT ADEQUATE REVENUES BE GENERATED TO PROVIDE FUNDING FOR THE OPERATION, IMPROVEMENT, MAINTENANCE AND MONITORING OF THE STORMWATER UTILITY SYSTEM. THEREFORE IT IS IN THE INTEREST OF THE PUBLIC TO FINANCE STORMWATER MANAGEMENT ADEQUATELY WITH A USER CHARGE SYSTEM THAT IS REASONABLE AND EQUITABLE SO THAT EACH USER OF THE SYSTEM PAYS TO THE EXTENT TO WHICH EACH USER CONTRIBUTES TO THE NEED FOR IT.

§ 26-261. AUTHORITY.

(A) AUTHORITY FOR THE CREATION OF A STORMWATER UTILITY DEPARTMENT IS CONFERRED ON THE MAYOR AND COUNCIL BY THE TOWN CHARTER SECTION C5-1(16).

(B) AUTHORITY FOR THE ADOPTION OF A SYSTEM OF CHARGES AND FEES TO FUND THE IMPLEMENTATION OF STORMWATER MANAGEMENT PROGRAMS IS CONFERRED ON THE MAYOR AND COUNCIL BY SECTION 4-204(D), ENVIRONMENTAL ARTICLE, ANNOTATED CODE OF MARYLAND, AS AMENDED.

§ 26-262. CREATION OF STORMWATER UTILITY DEPARTMENT.

A STORMWATER UTILITY DEPARTMENT IS HEREBY ESTABLISHED FOR THE PURPOSE OF MONITORING, MAINTAINING, IMPROVING AND OVERSEEING THE OPERATION OF THE STORMWATER UTILITY SYSTEM IN THE TOWN OF BERLIN. THE STORMWATER UTILITY DEPARTMENT SHALL PERFORM ITS FUNCTIONS UNDER THE DIRECTION AND SUPERVISION OF THE WATER RESOURCES DEPARTMENT AND THE TOWN ADMINISTRATOR.

§ 26-263. DEFINITIONS.

FOR PURPOSES OF THIS CHAPTER, THE FOLLOWING WORDS AND PHRASES SHALL HAVE THE MEANINGS INDICATED:

(A) EQUIVALENT RESIDENTIAL UNIT (ERU) RATE MEANS THE STORMWATER MANAGEMENT FEE CHARGED ON AN EQUIVALENT RESIDENTIAL UNIT (ERU). THE ANNUAL (FIXED YEAR) STORMWATER MANAGEMENT FEE FOR SINGLE FAMILY RESIDENTIAL PROPERTY IN THE TOWN EQUALS THE ERU RATE.

(B) EQUIVALENT RESIDENTIAL UNIT (ERU) MEANS THE MEDIAN IMPERVIOUS SURFACE AREA ASSOCIATED WITH A SINGLE FAMILY RESIDENTIAL PROPERTY IN THE TOWN.

(C) TOWN ADMINISTRATOR MEANS THE TOWN ADMINISTRATOR FOR THE TOWN OF BERLIN, MARYLAND OR HIS OR HER DESIGNEE.

(D) FEE OR STORMWATER MANAGEMENT FEE MEANS THE CHARGE ESTABLISHED UNDER THIS CHAPTER AND LEVIED ON OWNERS OF PARCELS OR PIECES OF REAL PROPERTY TO FUND THE COSTS OF STORMWATER MANAGEMENT AND OF OPERATING, MAINTAINING AND IMPROVING THE STORMWATER SYSTEM IN THE TOWN.

(E) FISCAL YEAR MEANS JULY 1 OF A CALENDAR YEAR TO JUNE 30 OF THE NEXT CALENDAR YEAR, BOTH INCLUSIVE.

(F) IMPERVIOUS SURFACE AREA MEANS THE NUMBER OF SQUARE FEET OF HORIZONTAL SURFACE COVERED BY BUILDINGS AND OTHER IMPERVIOUS SURFACES. ALL BUILDING MEASUREMENTS SHALL BE MADE BETWEEN EXTERIOR FACES OF WALLS, FOUNDATIONS, COLUMNS OR OTHER MEANS OF SUPPORT OR ENCLOSURE.

(G) IMPERVIOUS SURFACE MEANS A SURFACE AREA WHICH IS COMPACTED OR COVERED WITH MATERIAL THAT IS RESISTANT TO INFILTRATION BY WATER, INCLUDING, BUT NOT LIMITED TO, MOST CONVENTIONALLY SURFACED STREETS, ROOFS, SIDEWALKS, PATIOS, DRIVEWAYS, PARKING LOTS, AND ANY OTHER OILED, GRAVELED, GRADED, COMPACTED, OR OTHER SURFACE WHICH IMPEDES THE NATURAL INFILTRATION OF SURFACE WATER.

(H) NON-RESIDENTIAL PROPERTY MEANS PROPERTY OTHER THAN SINGLE-FAMILY RESIDENTIAL PROPERTY. SUCH PROPERTY SHALL INCLUDE, BUT NOT BE LIMITED TO, MULTI-FAMILY DWELLINGS, COMMERCIAL PROPERTY, INDUSTRIAL PROPERTY, PARKING LOTS, HOSPITALS, SCHOOLS, RECREATIONAL AND CULTURAL FACILITIES, HOTELS, OFFICES AND CHURCHES.

(I) PROPERTY OWNER MEANS THE PROPERTY OWNER OF RECORD AS LISTED IN THE STATE ASSESSMENT ROLL. A PROPERTY OWNER INCLUDES ANY INDIVIDUAL, CORPORATION, FIRM, PARTNERSHIP, OR GROUPS OF INDIVIDUALS ACTING AS A UNIT, AND ANY TRUSTEE, RECEIVER OR PERSONAL REPRESENTATIVE.

(J) SINGLE FAMILY RESIDENTIAL PROPERTY MEANS A PROPERTY WHICH SERVES THE PRIMARY PURPOSE, OR IS ZONED TO PROVIDE THE PRIMARY PURPOSE, OF PROVIDING A PERMANENT DWELLING UNIT AND WHICH IS CLASSIFIED AS RESIDENTIAL IN THE STATE ASSESSMENT ROLLS. TOWNHOUSES ARE INCLUDED IN THIS DEFINITION.

(K) STORMWATER MANAGEMENT FUND MEANS THE FUND CREATED BY THIS CHAPTER TO OPERATE, MAINTAIN, AND IMPROVE THE TOWN'S STORMWATER SYSTEM.

(L) STORMWATER MANAGEMENT MEANS THE PLANNING, DESIGN, CONSTRUCTION, REGULATION, IMPROVEMENT, REPAIR, MAINTENANCE AND OPERATION OF FACILITIES AND PROGRAMS RELATING TO WATER, FLOOD PLAINS, FLOOD CONTROL, GRADING, EROSION, TREE CONSERVATION AND SEDIMENT CONTROL.

(M) STORMWATER SYSTEM MEANS THE SYSTEM OR NETWORK OF STORM AND SURFACE WATER MANAGEMENT FACILITIES INCLUDING BUT NOT LIMITED TO INLETS, CONDUITS, MANHOLES, CHANNELS, DITCHES, DRAINAGE EASEMENTS, RETENTION AND DETENTION BASINS, INFILTRATION FACILITIES, AND OTHER COMPONENTS AS WELL AS ALL NATURAL WATERWAYS.

§ 26-264. ESTABLISHMENT OF STORMWATER MANAGEMENT FUND.

(A) THE STORMWATER MANAGEMENT PROGRAM IS ESTABLISHED AND THE STORMWATER SYSTEM IS PROVIDED TO PROTECT THE WATERWAYS AND LAND IN THE TOWN BY CONTROLLING FLOODING AND TO PROTECT THE NATURAL ENVIRONMENT. THE COSTS OF DESIGNING, DEVELOPING, IMPROVING, OPERATING, MAINTAINING, AND MONITORING THE STORMWATER SYSTEM REQUIRED IN THE TOWN SHOULD, THEREFORE,

BE ALLOCATED, TO THE EXTENT PRACTICABLE, TO ALL PROPERTY OWNERS BASED ON THEIR IMPACT ON THE STORMWATER SYSTEM. IN ORDER TO PROVIDE A REVENUE TO FUND THOSE COSTS AND TO FAIRLY ALLOCATE THOSE COSTS, A STORMWATER MANAGEMENT FUND ("THE FUND") IS ESTABLISHED.

(B) ALL REVENUES COLLECTED FROM THE STORMWATER MANAGEMENT FEE AND FROM GRANTS, PERMIT FEES AND OTHER CHARGES COLLECTED UNDER CHAPTER 26, STORMWATER MANAGEMENT, SHALL BE DEPOSITED TO THE FUND. THE COUNCIL MAY MAKE ADDITIONAL APPROPRIATIONS TO THE FUND. ALL DISBURSEMENTS FROM THE FUND SHALL BE FOR THE PURPOSES OF THE FUND AS SET FORTH IN SECTION 26-265.

§ 26-265. PURPOSES OF THE FUND.

THE FUND SHALL BE USED FOR THE FOLLOWING PURPOSES:

(A) THE ACQUISITION BY GIFT, PURCHASE, OR CONDEMNATION OF REAL AND PERSONAL PROPERTY, AND INTERESTS THEREIN, NECESSARY TO CONSTRUCT, OPERATE, AND MAINTAIN STORMWATER CONTROL FACILITIES.

(B) ALL COSTS OF ADMINISTRATION AND IMPLEMENTATION OF THE STORMWATER MANAGEMENT PROGRAM, INCLUDING THE ESTABLISHMENT OF REASONABLE OPERATING AND CAPITAL RESERVES TO MEET UNANTICIPATED OR EMERGENCY STORMWATER MANAGEMENT REQUIREMENTS.

(C) ENGINEERING AND DESIGN, DEBT SERVICE AND RELATED FINANCING EXPENSES, CONSTRUCTION COSTS FOR NEW FACILITIES, AND ENLARGEMENT OR IMPROVEMENT OF EXISTING FACILITIES.

(D) OPERATION AND MAINTENANCE OF THE STORMWATER SYSTEM.

(E) MONITORING, SURVEILLANCE, AND INSPECTION OF STORMWATER CONTROL DEVICES.

(F) WATER QUALITY MONITORING AND WATER QUALITY PROGRAMS.

(G) RETROFITTING DEVELOPED AREAS FOR POLLUTION CONTROL.

(H) INSPECTION AND ENFORCEMENT ACTIVITIES.

(I) BILLING AND ADMINISTRATIVE COSTS.

(J) OTHER ACTIVITIES WHICH ARE REASONABLY REQUIRED.

§ 26-266. STORMWATER MANAGEMENT FEE.

AN ANNUAL SERVICE CHARGE IS IMPOSED UPON ALL REAL PROPERTY IN THE TOWN, AS OF JULY 1 BILLING OF EACH FISCAL YEAR, AND SHALL BE BILLED MONTHLY, BEGINNING JULY 1, 2013, TO FUND STORMWATER MANAGEMENT PROGRAMS. THIS SERVICE CHARGE SHALL BE KNOWN AS THE STORMWATER MANAGEMENT FEE ("FEE"). ANY REAL PROPERTY ANNEXED INTO THE TOWN AFTER JULY 1 MAY BE SUBJECT TO A PARTIAL YEAR CHARGE. THE FEE IS BASED ON: (1) THE EXTENT TO WHICH EACH PROPERTY CREATES A NEED FOR

THE STORMWATER MANAGEMENT PROGRAM; (2) THE AMOUNT OF IMPERVIOUS AREA ON EACH PROPERTY; AND (3) THE COST OF IMPLEMENTING A STORMWATER MANAGEMENT PROGRAM.

§ 26-267. CLASSIFICATION OF PROPERTY FOR PURPOSES OF DETERMINATION OF THE STORMWATER MANAGEMENT FEE.

(A) FOR PURPOSES OF DETERMINING THE STORMWATER MANAGEMENT FEE, ALL PROPERTIES IN THE TOWN ARE CLASSIFIED INTO ONE OF THE FOLLOWING CLASSES:

(1) SINGLE-FAMILY RESIDENTIAL PROPERTY; OR

(2) NON-RESIDENTIAL PROPERTY.

(B) SINGLE-FAMILY RESIDENTIAL FEE. THE COUNCIL FINDS THAT THE INTENSITY OF DEVELOPMENT OF MOST PARCELS OF REAL PROPERTY IN THE TOWN CLASSIFIED AS SINGLE FAMILY RESIDENTIAL IS SIMILAR AND THAT IT WOULD BE EXCESSIVELY AND UNNECESSARILY EXPENSIVE TO DETERMINE PRECISELY THE SQUARE FOOTAGE OF THE IMPROVEMENTS (SUCH AS BUILDINGS, STRUCTURES, AND OTHER IMPERVIOUS AREA) ON EACH SUCH PARCEL. THEREFORE, ALL SINGLE FAMILY RESIDENTIAL PROPERTIES IN THE TOWN SHALL BE CHARGED A FLAT STORMWATER MANAGEMENT FEE, EQUAL TO THE ERU RATE, REGARDLESS OF THE SIZE OF THE PARCEL OR THE IMPROVEMENTS.

(C) NON-RESIDENTIAL PROPERTY FEE. THE FEE FOR NON-RESIDENTIAL PROPERTY IN THE TOWN SHALL BE THE ERU RATE MULTIPLIED BY THE NUMERICAL FACTOR OBTAINED BY DIVIDING THE TOTAL IMPERVIOUS SURFACE AREA (SQUARE FEET) OF THE PROPERTY BY ONE ERU UNIT. THE IMPERVIOUS SURFACE AREA FOR NON-RESIDENTIAL PROPERTY IS THE SQUARE FOOTAGE FOR THE BUILDINGS AND OTHER IMPROVEMENTS ON THE PROPERTY AS LISTED IN THE STATE ASSESSMENT ROLL. ALTERNATIVELY, AT THE SOLE DISCRETION OF THE TOWN ADMINISTRATOR, THE IMPERVIOUS SURFACE AREA OF NON-RESIDENTIAL PROPERTY MAY BE DETERMINED THROUGH SITE EXAMINATION, MAPPING INFORMATION, AERIAL PHOTOGRAPHS OR OTHER AVAILABLE INFORMATION. THE MINIMUM STORMWATER MANAGEMENT FEE FOR NON-RESIDENTIAL PROPERTY SHALL EQUAL THE ERU RATE FOR SINGLE FAMILY RESIDENTIAL PROPERTY.

§ 26-268. ERU RATE.

THE COUNCIL SHALL, BY RESOLUTION, ESTABLISH THE ANNUAL (FISCAL YEAR) ERU RATE FOR THE STORMWATER MANAGEMENT FEE. THE BASE RATE SHALL BE CALCULATED TO INSURE ADEQUATE REVENUES TO FUND THE COSTS OF STORMWATER MANAGEMENT AND TO PROVIDE FOR THE OPERATION, MAINTENANCE, AND CAPITAL IMPROVEMENTS OF THE STORMWATER SYSTEM IN THE TOWN.

§ 26-269. CHARGES FOR TAX-EXEMPT PROPERTIES.

THE COUNCIL FINDS THAT ALL REAL PROPERTY IN THE TOWN CONTRIBUTES TO RUNOFF AND EITHER USES OR BENEFITS FROM THE MAINTENANCE OF THE STORMWATER SYSTEM. ALL REAL PROPERTY IN THE TOWN, INCLUDING PROPERTY THAT IS EXEMPT FROM PROPERTY TAX BY TITLE 7 OF THE TAX-PROPERTY, ANNOTATED CODE OF MARYLAND, AS AMENDED, SHALL BE CHARGED THE FEE.

§ 26-270. ASSESSMENT NOTICES.

(A) THE TOWN ADMINISTRATOR SHALL FOR THE FISCAL YEAR BEGINNING JULY 1, 2013 ONLY, SEND ASSESSMENT NOTICES FOR THE FEE TO PROPERTY OWNERS OF NON-RESIDENTIAL PROPERTY PRIOR TO THE BILLING FOR THE FEE.

(B) THE NOTICE SHALL INCLUDE THE FOLLOWING INFORMATION:

(1) THE CLASSIFICATION OF THE PROPERTY FOR PURPOSES OF DETERMINING THE FEE;

(2) FOR PROPERTY CLASSIFIED AS NON-RESIDENTIAL PROPERTY:

(I) THE IMPERVIOUS SURFACE AREA OF THE PROPERTY; AND

(II) THE METHOD BY WHICH THE IMPERVIOUS SURFACE AREA OF THE PROPERTY WAS DETERMINED; THAT IS, WHETHER THE COMPUTATION OF THE IMPERVIOUS SURFACE AREA OF THE PROPERTY IS BASED ON INFORMATION IN THE STATE ASSESSMENT ROLL, SITE EXAMINATION, MAPPING INFORMATION, AERIAL PHOTOGRAPHS, OR OTHER AVAILABLE INFORMATION.

(3) THE AMOUNT OF THE ERU RATE (I.E., THE SINGLE FAMILY RESIDENTIAL FEE) AND, FOR NON-RESIDENTIAL PROPERTY, THE NUMBER OF ERU UNITS ON THE PROPERTY. IF THE NUMBER OF UNITS IS A FRACTION, IT SHALL BE ROUNDED TO THE NEXT HIGHEST WHOLE NUMBER.

§ 26-271. WHEN STORMWATER MANAGEMENT FEE PAYABLE; INTEREST AND PENALTIES; LIEN ON REAL PROPERTY.

(A) THE FEE THAT IS DUE FOR A FISCAL YEAR MUST BE PAID WITHIN 30 DAYS AFTER THE BILL IS MAILED OR ISSUED TO THE PROPERTY OWNER AND IS OVERDUE AFTER THAT DATE. AN OVERDUE FEE BEARS INTEREST AND PENALTIES AT THE RATE OF 1.5% FOR EACH MONTH OR FRACTION OF A MONTH THAT THE FEE IS OVERDUE.

(B) THE FEE, INCLUDING INTEREST AND PENALTIES, WHEN OVERDUE IS A LIEN ON REAL PROPERTY AND MAY BE COLLECTED IN THE SAME MANNER AS DELINQUENT REAL PROPERTY TAXES OR BY A SUIT AGAINST THE PROPERTY OWNER.

§ 26-272. REQUESTS FOR CORRECTION OF THE STORMWATER MANAGEMENT FEE.

(A) A PROPERTY OWNER MAY REQUEST CORRECTION OF THE FEE BY SUBMITTING THE REQUEST IN WRITING TO THE TOWN ADMINISTRATOR AFTER THE DATE THE ASSESSMENT NOTICE OR THE BILL IS MAILED OR ISSUED TO THE PROPERTY OWNER. GROUNDS FOR CORRECTION OF THE FEE INCLUDE:

(1) INCORRECT CLASSIFICATION OF THE PROPERTY FOR PURPOSES OF DETERMINING THE FEE;

(2) ERRORS IN THE SQUARE FOOTAGE OF THE IMPERVIOUS SURFACE AREA OF THE PROPERTY;

(3) MATHEMATICAL ERRORS IN CALCULATING THE FEE TO BE APPLIED TO THE PROPERTY; AND

(4) ERRORS IN THE IDENTIFICATION OF THE PROPERTY OWNER OF A PROPERTY SUBJECT TO THE FEE.

(B) THE TOWN ADMINISTRATOR SHALL MAKE A DETERMINATION WITHIN 30 DAYS AFTER RECEIPT OF THE PROPERTY OWNER'S COMPLETED WRITTEN REQUEST FOR CORRECTION OF THE FEE. THE TOWN ADMINISTRATOR'S DECISION ON A REQUEST FOR CORRECTION OF THE FEE SHALL BE FINAL.

(C) A PROPERTY OWNER MUST COMPLY WITH ALL RULES AND PROCEDURES ADOPTED BY THE TOWN WHEN SUBMITTING A REQUEST FOR CORRECTION OF THE FEE AND MUST PROVIDE ALL INFORMATION NECESSARY FOR THE TOWN ADMINISTRATOR TO MAKE A DETERMINATION ON A REQUEST FOR CORRECTION OF THE FEE. IF A PROPERTY OWNER ALLEGES AN ERROR UNDER SECTION 26-272(A)(2), THEN THE REQUEST FOR CORRECTION MUST INCLUDE A CERTIFICATION BY A REGISTERED ENGINEER OR PROFESSIONAL LAND SURVEYOR OF THE IMPERVIOUS SURFACE AREA OF THE PROPERTY. FAILURE TO COMPLY WITH THE PROVISIONS OF THIS SUBSECTION SHALL BE GROUNDS FOR DENIAL OF THE REQUEST.

THIS ORDINANCE was introduced and read at a meeting of the Town Council held on the _____ day of _____, 2013, and thereafter a statement of the substance of the Ordinance having been published as required by law was finally passed by the Town Council on the _____ day of _____, 2013.

Adopted and effective this _____ day of _____, 2013 by the Mayor and Council of the Town of Berlin, Maryland, by affirmative vote of _____ to _____ opposed, with _____ abstaining.

Elroy Brittingham, Vice-President

Approved and effective this _____ day of _____, 2013 by the Mayor of the Town of Berlin.

Wm. Gee Williams, Mayor

ATTEST: Anthony Carson, Town Administrator

RESOLUTION 2013-1

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN, MARYLAND, A MARYLAND MUNICIPAL CORPORATION, ESTABLISHING, PURSUANT TO CHAPTER 26, ARTICLE V OF THE TOWN CODE, THE SQUARE FOOTAGE OF AN EQUIVALENT RESIDENTIAL UNIT (ERU) AND AMOUNT OF THE EQUIVALENT RESIDENTIAL UNIT RATE (ERU RATE).

WHEREAS, THE MAYOR AND COUNCIL HAVE ENACTED CHAPTER 26, ARTICLE V OF THE TOWN CODE WHICH ESTABLISHES A STORMWATER MANAGEMENT UTILITY AND A STORMWATER MANAGEMENT UTILITY FEE SYSTEM TO BE ASSESSED UPON ALL PROPERTY OWNERS WITHIN THE CORPORATE LIMITS OF THE TOWN; AND

WHEREAS, §26-263(B) OF SAID ORDINANCE DEFINES AN EQUIVALENT RESIDENTIAL UNIT (ERU) AS THE MEDIAN IMPERVIOUS SURFACE AREA ASSOCIATED WITH A SINGLE FAMILY RESIDENTIAL PROPERTY IN THE TOWN; AND

WHEREAS, §26-268 REQUIRES THE MAYOR AND COUNCIL TO ESTABLISH THE EQUIVALENT RESIDENTIAL UNIT RATE (ERU RATE) ON AN ANNUAL FISCAL YEAR BASIS FOR SINGLE FAMILY RESIDENTIAL PROPERTY AND NON-RESIDENTIAL PROPERTY IN THE TOWN.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN AS FOLLOWS:

1. AN EQUIVALENT RESIDENTIAL UNIT (ERU) IS 2,100 SQUARE FEET OF IMPERVIOUS SURFACE.
2. THE EQUIVALENT RESIDENTIAL UNIT RATE (ERU RATE) FOR SINGLE FAMILY RESIDENTIAL PROPERTY IS HEREBY ESTABLISHED AT THE SUM OF FIFTY DOLLARS (\$50.00) ANNUALLY.
3. THE EQUIVALENT RESIDENTIAL UNIT RATE (ERU RATE) FOR NON-RESIDENTIAL PROPERTY IS HEREBY ESTABLISHED AT THE SUM OF TWENTY-FIVE DOLLARS (\$25.00) PER ERU ANNUALLY.

Adopted this _____ day of _____, 20__ by the Mayor and the Town of Berlin, Maryland, by affirmative vote of _____ to _____ opposed, with _____ abstaining.

Elroy Brittingham, Vice-President

Approved this _____ day of _____, 20__ by the Mayor and Town of Berlin.

Wm. Gee Williams, III, Mayor

ATTEST: Anthony Carson, Town Administrator

TOWN ADMINISTRATOR'S REPORT
January 14, 2013

Purchase Orders

PO# 201301653 in the amount of \$6,000.00 to General Refrigeration for cost of welding for Power Plant Oxidation Catalysts project.

PO# 201301695 in the amount of \$1,620.00 to Cross Match Technologies for annual maintenance Finger Printing system.

PO# 201301745 in the amount of \$11,500.00 to ETSI installation materials for Power Plant Oxidation Catalyst Project.

PO# 201301783 in the amount of \$5,550.00 to Capital Tristate Electrical for quantity of (25) 70 watt induction light fixtures.

PO# 201301375 in the amount of \$11,200.00 to Intercoastal Trading for soda ash.

PO# 201301891 in the amount of \$2,445.00 to Electric Motor & Contracting Co. Inc. for repairs to Generator #1. To be submitted to insurance (Flooding problem).

PO# 201301940 in the amount of \$14,929.62 to CR Consulting Services for installation of crankcase vent filter systems on all four engines at Power Plant. To be submitted for bid bond proceeds.

PO# 201301668 in the amount of \$1,779.00 to Envirocorp for testing samples for December. Required by MDE.

PO# 201301933 in the amount of \$2,386.85 to Belair Road Supply for fittings to fix force main at Spray Site. Emergency repair.

PO# 201301887 in the amount of \$7,941.43 to Goody Hill Ground Work for emergency repairs due to water main break on North Main Street.

PO# 201301967 in the amount of 1,600.00 to University of Maryland Capital Wireless Info Net for installation of 9 wireless devices for Police Department.

Updates